



**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter of:)	
)	
Connect American Fund Phase II Auction)	AU Docket 17-182
FCC Form 683 Instructions)	WC Docket 10-90
)	

PETITION FOR RECONSIDERATION

**ASSOCIATION OF FEDERAL COMMUNICATIONS CONSULTING ENGINEERS
WASHINGTON, D.C.**

Summary

AFCCE¹ seeks reconsideration by the Commission of the instructions released by the Task Force and Bureaus that it is not the FCC’s intention to redefine the term “Professional Engineer,” as that term has been used for over fifty years, namely a person licensed by a state or territory to practice engineering and/or provide professional engineering services to the public.

Background

Under Delegated Authority, the Rural Broadband Task Force, Wireless Telecommunications Bureau, and Wireline Competition Bureau released instructions for FCC Form 683 (“Application for Connect America Fund Phase II Auction Support”). These instructions improperly re-interpreted and materially changed a decision reached by the Commission in a February 1, 2018 Public Notice.

¹ AFCCE is a professional organization composed of members who provide technical, legal and other supporting roles in the communications industry to serve clients having matters under the purview of the Commission, including a significant number of members who are registered/licensed professional engineers. AFCCE has worked with the FCC for over 60 years to provide comments, guidance, and recommendations on such topics as rule interpretation, technical collaboration, and assessing the impacts of FCC technical policy and rules.



In the FCC’s February 1, 2018, Public Notice, “Connect American Fund Phase II Auction Scheduled for July 24, 2018 Notice And Filing Requirements And Other Procedures For Auction 903” (DA 18-6),² the FCC mentioned in numerous paragraphs³ that certification of the network design was required by a “professional engineer.”⁴ A subsequent August 28, 2018, Public Notice, “Connect American Fund Phase II Auction (Auction 903) Closes, Winning Bidders Announced, FCC Form 683 Due October 15, 2018” (DA 18-887),⁵ provided instructions in paragraph 16 and in Appendix C that changed this requirement. Namely, “[w]hile it is not necessary that the professional engineer certifying the network diagram have a Professional Engineer license, the certification should describe the professional engineer’s qualifications such that the certifier’s expertise is apparent.” AFCCE expects that the FCC is not intending to review, much less pass judgement on the many of these certifications. Doing so would usurp the long-standing practices in the individual States to review the background and qualifications of applicants for engineering licensure, including graduation from an accredited university program, experience working under the supervision of a Professional Engineer, references from other Professional Engineers, and successfully passing two comprehensive examinations. Moreover, Professional Engineers have an explicit commitment to follow a Code of Ethics to hold them accountable for their work, something that unlicensed persons do not.

The Task Force and Bureaus are redefining the term “professional engineer” by stating that a professional engineer does not need to be licensed as a Professional Engineer. In many jurisdictions, the terms “Professional Engineer” (capitalized) or “professional engineer” are restricted to those licensed by that jurisdiction to practice engineering. This is done for reasons of public safety, welfare, and protection. Just as you would not want a bridge or building to be designed by an unlicensed person, a radio system used by the public for safety-of-life purposes

² <https://www.fcc.gov/document/fcc-takes-final-steps-next-phase-rural-broadband-expansion-1>

³ See for example, para. 298, “A long-form applicant is required to submit a detailed technology and system design description, including a network diagram that must be certified by a professional engineer.” (emphasis added)

⁴ Although AFCCE supports the requirement that a Registered Professional Engineer (P.E.) may be appropriate in this instance, that is not the reason for these comments.

⁵ See <https://www.fcc.gov/auction/903>



should also not be designed by an unlicensed person. The re-definition is contrary to many states' laws as well as guidelines for national organizations such as the National Society of Professional Engineers (NSPE), which require that a professional engineer have a current license in the state or territory in which he/she practices. The redefinition creates public confusion and denigrates the significance of the title of Professional Engineer in areas of public safety

Clarification is Needed

AFCCE believes the intent of the Task Force and Bureaus in DA 18-887 was to clarify that there is no requirement for the certifying individual to be licensed as a Professional Engineer, but it is unclear that the Commission had previously adopted this policy, and the wording went far beyond that clarification and instead redefined a title for a profession that is restricted under many state and territorial laws.

On September 12, 2018, AFCCE filed an informal e-mail comment to FCC staff persons Chelsea Fallon (Director), Kirk Burgee (Deputy Director) and Nathan Eagan (Chief of Staff) that it had concerns about the FCC's apparent redefinition of "professional engineer." AFCCE received a response from Director Fallon the following day, but unfortunately it did not address AFCCE's concerns about a professional engineer needing to be licensed.⁶ Indeed, AFCCE was told in that response that the Commission had redefined the term professional engineer in its February 2018, Public Notice and that the window to challenge that decision had closed. However, the February 2018 Public Notice did no such thing, and it is the subsequent instructions by the Task Force and Bureaus under delegated authority DA 18-887 that raised concerns for AFCCE. Only in the August 28 document was the licensing requirement removed; no such statement was made in the Commission's February Public Notice (DA 18-6).

⁶ E-mail from Chelsea H. Fallon, Director, Rural Broadband Auctions Task Force to Jon Edwards, September 13, 2018 at 4:07 p.m. "The decision not to require a Licensed Professional Engineer for the engineering certifications on the long-form applications filed by winning bidders in the Connect America Fund Phase II Auction was made by the FCC in the auction Procedures Public Notice, which was adopted in January 2018... (see paragraph 298)."



To be clear, AFCCE's concern is the FCC's removal of the licensing requirement for a person to use the title "professional engineer," not whether a licensed (professional) engineer is required to certify CAF network designs. Thus, AFCCE is filing a petition for reconsideration regarding the instructions in DA 18-887.

The Use of the Title "Professional Engineer" is Restricted in Many States and Territories

AFCCE emphasizes that use of the title "Professional Engineer" is generally inappropriate or illegal by anyone other than a person who is registered as a Professional Engineer. In many states, the title "professional engineer" is legally protected, meaning that it is unlawful to use it to offer engineering services to the public unless permission, certification, or other official endorsement is specifically granted by the state through grant of a professional engineering license. Many states prohibit unlicensed persons from calling themselves a "Professional Engineer" or indicating branches or specialties not covered by the licensing acts. The term Professional Engineer indicates a standard of competence to complete an engineering task. Only a licensed engineer may seal (certify) engineering work for public and private clients. AFCCE believes that this *redefinition* sets a dangerous precedent moving forward regarding the title Professional Engineer.

FCC Should Clarify Whether Engineers Certifying Network Designs Need Be Professional Engineers

AFCCE is concerned that the staff's instructions in Appendix C redefine the title "Professional Engineer" by merely removing capitalization:

Technology and System Design Description- As described in paras. 298-305 of the [Auction 903 Procedures Public Notice](#), a long-form applicant must submit, for each state where it has a winning bid, a detailed description of its technology including a network diagram certified by a professional engineer.

...

The professional engineer must certify that he or she has reviewed the network diagram and that the network is capable of delivering, to at least 95 percent of the required number of locations in each relevant state, voice and broadband service that meets the requisite performance requirements. While it is not necessary that the professional engineer have a Professional Engineer license, the certification should describe the professional engineer's qualifications such that the certifier's expertise is apparent.



If the Commission makes the policy decision that registration as a P.E. should not necessarily be a prerequisite for CAF network certifications, AFCCE asks that this instruction be restated substantially as follows:

Technology and System Design Description- As described in paras. 298-305 of the [Auction 903 Procedures Public Notice](#), a long-form applicant must submit, for each state where it has a winning bid, a detailed description of its technology including a network diagram certified by a qualified individual. ~~professional engineer~~.

...

The ~~professional engineer~~ individual must certify that he or she has reviewed the network diagram and that the network is capable of delivering, to at least 95 percent of the required number of locations in each relevant state, voice and broadband service that meets the requisite performance requirements. While it is not necessary that the ~~professional engineer~~ individual have a Professional Engineer license, the certification should describe the ~~professional engineer's~~ individual's qualifications such that the certifier's expertise is apparent.

AFCCE thanks you for your time in this matter and requests the Commission continue to require registration when using the restricted title of Professional Engineer.

Respectfully Submitted,
Association of Federal Communications
Consulting Engineers
By

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AFCCE-FCC Liaison
September 27, 2018